

### **13-35-203 Succession to franchise.**

- (1)
  - (a) A successor, including a family member of a deceased or incapacitated franchisee, who is designated by the franchisee may succeed the franchisee in the ownership and operation of the dealership under the existing franchise agreement if:
    - (i) the designated successor gives the franchisor written notice of an intent to succeed to the rights of the deceased or incapacitated franchisee in the franchise agreement within 180 days after the franchisee's death or incapacity;
    - (ii) the designated successor agrees to be bound by all of the terms and conditions of the franchise agreement; and
    - (iii) the designated successor meets the criteria generally applied by the franchisor in qualifying franchisees.
  - (b) A franchisor may refuse to honor the existing franchise agreement with the designated successor only for good cause.
- (2)
  - (a) The franchisor may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored.
  - (b) The designated successor shall supply the personal and financial data promptly upon the request.
- (3)
  - (a) If a franchisor believes that good cause exists for refusing to honor the requested succession, the franchisor shall serve upon the designated successor notice of its refusal to approve the succession, within 60 days after the later of:
    - (i) receipt of the notice of the designated successor's intent to succeed the franchisee in the ownership and operation of the dealership; or
    - (ii) the receipt of the requested personal and financial data.
  - (b) Failure to serve the notice pursuant to Subsection (3)(a) is considered approval of the designated successor and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day the franchisor can serve notice under Subsection (3)(a).
- (4) The notice of the franchisor provided in Subsection (3) shall state:
  - (a) the specific grounds for the refusal to approve the succession; and
  - (b) that discontinuance of the franchise agreement shall take effect not less than 180 days after the date the notice of refusal is served unless the proposed successor files an application for hearing under Subsection (6).
- (5)
  - (a) This section does not prevent a franchisee from designating a person as the successor by written instrument filed with the franchisor.
  - (b) If a franchisee files an instrument under Subsection (5)(a), the instrument governs the succession rights to the management and operation of the dealership subject to the designated successor satisfying the franchisor's qualification requirements as described in this section.
- (6)
  - (a) If a franchisor serves a notice of refusal to a designated successor pursuant to Subsection (3), the designated successor may, within the 180-day period provided in Subsection (4), file with the advisory board an application for a hearing and a determination by the executive director regarding whether good cause exists for the refusal.

- (b) If application for a hearing is timely filed, the franchisor shall continue to honor the franchise agreement until after:
  - (i) the requested hearing has been concluded;
  - (ii) a decision is rendered by the executive director; and
  - (iii) the applicable appeal period has expired following a decision by the executive director.

Amended by Chapter 268, 2005 General Session